



Legislation Text

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Res. No. 989-A

Resolution calling on the New York State Legislature and the Governor to enact legislation that would prohibit lenders from concealing mortgage assignments through the use of the Mortgage Electronic Registration System, Inc., known as MERS.

By Council Member Vann, Brewer, James, Lander, Mendez, Williams, Rose, Wills, Garodnick, Comrie, Levin, Barron, Dromm, Palma, Jackson, Foster, Dickens, Reyna, Mark-Viverito, Ferreras, Gentile, Sanders Jr., Koppell, Rodriguez, Gennaro and Halloran

Whereas, In the mid-1990s, Fannie Mae, Freddie Mac and several large banks in the United States created the Mortgage Electronic Registration System, Inc. (MERS), an electronic-lien registry system built by the housing finance industry, to streamline the mortgage process; and

Whereas, Each mortgage that is entered into the MERS system has a unique mortgage identification number (MIN) used to track a mortgage loan throughout its life, from its origination through securitization; and

Whereas, Critics claim the decision to create MERS was made mostly to avoid paying recording fees charged by government agencies, which required that all mortgage transfers and assignments be properly recorded and indexed in publicly available registries of deeds; and

Whereas, MERS works by registering as the owner of record in the public filings for all mortgages originated or acquired by its members and tracking the owner of the beneficial and legal interest in those mortgages with its own mortgage identification number; and

Whereas, MERS has become as a privately run, national registry of deeds under which they act as the depository of all mortgages entered into the system and the mortgage notes and loans themselves are freely bought and sold on a secondary market; and

Whereas, According to Legal Services NYC, ownership of mortgages have been obscured by lenders

through the frequent use of the MERS to avoid the need to re-record mortgages each time a loan is assigned;
and

Whereas, United States Bankruptcy Judge Robert E. Grossman, serving in the Eastern District of New York, issued an opinion in February 2011 calling into question the rules and procedures that MERS uses to transfer mortgages and handle foreclosures on behalf of the largest United States banks; and

Whereas, Judge Grossman concluded that “MERS and its partners made the decision to create and operate under a business model that was designed in large part to avoid the requirements of the traditional mortgage recording process” thus rejecting any argument that because “MERS may be involved with fifty (50) percent of all residential mortgages in the county ... it should receive favorable treatment from the judiciary and turn a blind eye to the fact that this process does not comply with the law”; and now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature and the Governor to enact legislation that would prohibit lenders from concealing mortgage assignments through the use of the Mortgage Electronic Registration System, Inc., known as MERS.

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